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EXAMINER
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WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/727,313

Applicant(s)

DAVIDSON ET AL.

Examiner

Stephan F. Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-56 and 58-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-56, 58-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 31, 36, 49, 58 and 67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "signal encapsulated within" a header is unclear, thus signal was ignored here and later interpreted to mean data type packet.

### *Claim Rejections - 35 USC 102*

2. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 31, 34-36, 39-44, 48-54, 57-58, 61-62, 64, 67 are rejected under 35 U.S.C. 102(e) as being anticipated by Verma et al. with Patent Number 6,614,809.

4. Regarding claim(s) 31, 36, 49, 58, 62, 64, 67, Verma teaches a tunneling server, col. 2, lines 44-46 and receiving from a client a point to point (PPP) packets, col. 1, line 13 with network address request headers, col. 5-6, lines 64-12 with an identifier identifying a destination

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client or second client, col. 7, lines 28-29. Verma teaches appending or encapsulating the point to point packet (signal) within an address header and data, col. 7, lines 26-28. Verma teaches communicating the response packet to the destination client, col. 7, lines 34-36. Verma teaches a first client comprising a protocol stack to generate PPP, col. 2, lines 18-20, 33-34 and payload, col. 2, line 67; col. 8, line 51. Verma teaches a tunneling module to encapsulate a network address, col. 3, lines 4-7 and removing a header, col. 3, lines 49-53, but also as mapping or header offsets, col. 9, lines 1-2 to communicate the packet (signal) to said tunneling server, col. 3, lines 39-42 that appends a new header to form a second data unit, col. 7, lines 26-33, 52-67. Verma teaches maintaining a session, col. 8, lines 56-61.

5. Regarding claim(s) 34, 39, 41, 50-51, Verma teaches a tunneling header appended to the PPP and encapsulated in the request header, col. 6, lines 14-15 that facilitate maintenance of the tunneling session from between the server and the first or sending client and destination client, col. 4, lines 6-8.

6. Regarding claim(s) 35, 40, Verma teaches a tunneling from L2TP, col. 6, line 58.

7. Regarding claim(s) 42, 52, Verma teaches communicating the packet (signal) toward a router as "tunnel mediator translator", col. 6, line 52 to relay the packet to the destination client without referencing standard routing tables indexed by channel or network addresses, col. 6-7, lines 65-74 by using tunnel IDs in a "modified message", col. 7, lines 33-34.

8. Regarding claim(s) 43-44, 53-54, 61, Verma teaches the (destination client) identifier comprising a control channel address or ID as "address of tunnel endpoint", Table 2 or as "its own tunnel identifier", col. 7, lines 39-43 and as stated above these addresses or identifiers are

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not standard "channel addresses" as recognized by routers and accessing memory to lookup the control channel address or ID, col. 10, lines 46-48.

9. Regarding claim(s) 48, 57, Verma teaches removing the network request header, col. 8, lines 51-55.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 32-33, 37-38, 45-47, 55-56, 59-60, 63, 65-66 are rejected under 35 U.S.C. 103(a) as being unpatentable Verma et al. with Patent Number 6,614,809 in view of Gai et al. with Patent Number 6,697,360.

12. Regarding claim(s) 32-33, 37-38, 59-60, Verma teaches a tunneling server, col. 2, lines 44-46 and receiving from a client a point to point packets, col. 1, line 13 with network address request headers, col. 5, lines 64-65 with an identifier identifying a destination client, col. 7, lines 28-29. Verma teaches encapsulating the point to point packet within an address response header, col. 7, lines 26-28. Verma teaches communicating the response packet to the destination client, col. 7, lines 34-36. Verma teaches the invention in the above claim(s) except for explicitly teaching DHCP DISCOVER and OFFER headers. In that Verma operates to tunnel data in a computer network, the artisan would have looked to the network data tunneling arts for details of

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implementing resultant details of forwarding messages based on intermediate addresses. In that art, Gai, a related network data forwarding communication system, teaches “as well as tunnel interfaces”, col. 8, line 7 in order to provide tunneling capability. Gai specifically teaches “DHCPDISCOVER messages” and “DHCPOFFER message”, col. 8, 9, lines 24, 30. Further, Gai suggests allowing “switch to communicate with other portions of the network”, col. 8, lines 15-16 which will result from implementing DHCP. The motivation to incorporate DHCP messages insures dynamic address assignment is supported. Thus, it would have been obvious to one of ordinary skill in the art to incorporate DHCP as taught in Gai into the communication tunneling system described in Verma because Verma operates with tunneling messages and Gai suggests that optimization can be obtained by specifically applying well known DHCP address assignment as needed. Therefore, by the above rational, the above claims are rejected.

13. Regarding claims 45-47, 55-56, 65-66, the Verma-Gai patents disclose the method of the preceding claims, and includes application demands, col. 2, line 37 in Verma. The Verma-Gai patents do not explicitly disclose details of processing of data sent to client specific types of applications and their installation, for example, specific information to be applied to an application, a maintenance type application, or a portion of an application to be installed at a client. However, Official Notice is taken MPEP 2144.03 (a)) that packet content such as specific information to be applied to an application, a maintenance type application, or a portion of an application to be installed at a client are well known in the art to insure relevant data is sent and processed. It would have been obvious to one of ordinary skill in the art at the time of the application's invention to send specific information to be applied to an application, a

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maintenance type application, or a portion of an application to be installed at a client to obtain the advantages of sending relevant data. By the above rational, the claim is rejected.

14. Regarding claim(s) 63, Verma teaches a tunneling from L2TP, col. 6, line 58.

***Response to Amendment***

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

2. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

3. Applicant suggests "the point to point signal is sent without requiring a data channel address", Paper Filed 6/13/05, Page 10, lines 26-27. Arguably, by definition a PPP has a tunnel associated with data sent. The above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

4. Applicant suggests Verma does not teach "a point to point signal encapsulated in a network address request header", Paper Filed 6/13/05, Page 10, lines 28-29. Verma teaches "appending a network address request header" as "to initiate establishment of a tunnel connection", col. 6, line 11. Arguably, while initiating the connection itself the connection request also has a PPP signal/data encapsulated within its header. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

**Conclusion**

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. A close review of the Chuah reference with Patent Number 6,449,272 is suggested. The other references cited teach numerous other ways to tunnel through firewalls and PNs with alternative addressing schemes, thus a close review of them is suggested.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571) 272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.



Stephan Willett

Patent Examiner

July 8, 2005